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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 000211

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SUBJECT: TURKEY: ACADEMIC CONVICTED FOR INSULTING ATATURK

REF: A. ANKARA 151

[1](#)B. ANKARA 59

[1](#)C. 07 ANKARA 2731

[1](#)D. 07 ANKARA 2958

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Classified By: Political Counselor Janice Weiner for reasons 1.4(b),(d)

1.(SBU) Summary: An Izmir court dealt a blow to freedom of expression in Turkey on January 29 by convicting Gazi University professor Atilla Yayla of insulting Turkey's founding father Ataturk at a 2006 Izmir conference. Yayla's attorney told us the professor merely presented a critical analysis of the Republic under Ataturk's single-party rule (1925-1945); Yayla's reported reference to Ataturk as "this man" -- the only phrase the prosecutor could latch onto -- led to his prosecution. Yayla plans to appeal the court's 15-month "suspended" sentence. While human rights contacts believe the verdict highlights obstacles erected by a nationalistic judiciary, they add it also has sparked much-needed societal debate on the topic of freedom of expression. End summary.

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Professor Convicted of Insulting Ataturk  
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[1](#)2. (SBU) An Izmir court January 29 convicted Atilla Yayla, a professor at Ankara's Gazi University and head of the Association for Liberal Thinking, of insulting the legacy of the Turkish Republic's founding father, Mustafa Kemal Ataturk. The court sentenced Yayla to 15 months in prison pursuant to Law No. 5816, which prohibits "crimes committed against Ataturk" and subjects individuals who publicly "insult or curse the memory" to a prison term of up to three years. The court suspended the sentence, provided Yayla does not re-offend within two years, a common technique akin to probation.

[1](#)3. (SBU) Yayla was convicted for remarks during his academic presentation at a 2006 Izmir conference on Turkey's development, sponsored by the ruling Justice and Development Party's (AKP's) youth wing. Comparing the Republic's single-party rule (1925-1945) to its multi-party period (1945 - present), Yayla concluded Turkey was more "backward" during the former. Yayla also predicted European visitors, viewing the omnipresent pictures and statues of Ataturk, will increasingly question the values of a country with a cult of

Ataturk.

¶4. (SBU) The Izmir prosecutor launched the case based on local newspaper coverage of conference alone, according to Erkem; there was no audio or video recording of the conference to confirm Yayla's comments. Erkem unsuccessfully argued in court that Yayla had no intention to insult Ataturk with his critical academic evaluation. "Academics must be free to think, to search and share findings," she stated. Former Court of Appeals Chief Judge Sami Selcuk and several other prominent attorneys submitted amicus briefs to the court arguing Yayla's presentation had not violated any law.

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Defense Plans to Appeal Verdict  
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¶5. (SBU) Erkem criticized the court's "suspended sentence" as a technique commonly used to stifle free speech while allowing the judiciary to maintain that prison sentences have not been imposed. She plans to appeal shortly, after the court releases its detailed verdict. The Court of Appeals' prior decisions in similar cases, including upholding Hrant Dink's conviction under Penal Code Article 301 (criminalizing insulting "Turkishness"), leave little hope of a reversal, she told us. If the appellate court upholds the decision, Erkem will file in the European Court of Human Rights.

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Yayla Plans to Return to Turkey Despite Threats  
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¶6. (SBU) Gazi University fired Yayla after the prosecutor opened the investigation. Erkem told us most Gazi students are fiercely nationalist and supported his dismissal. Several anonymous death threats were slipped under his office door, Erkem noted; the university found no culprits. Only a small group of Yayla's students supported him by organizing

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demonstrations and marching through campus with their mouths taped. Though the University was forced to reinstate Yayla after Erkem successfully challenged his dismissal in an administrative court, Yayla left Turkey to teach in England. Erkem said Yayla plans to return to his position at Gazi this summer, and is likely to accept the state's offer to provide him with police protection.

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A Long Way To Go On Freedom Of Expression  
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¶7. (C) Human Rights Agenda Association President Orhan Cengiz told us Turkey's nationalist judiciary (refs C, D) constitutes the country's main impediment to free expression. Prosecutors and judges persistently oppose attorneys working to protect individual freedoms, according to Cengiz. He recounted that Erkem had been charged with "interfering with the judicial process" by reading a legal petition to the press in a 2003 case of alleged child abuse at Izmir's Buca prison. Erkem had learned of the problem, recorded photographic and oral evidence of mistreatment, and then submitted it to Izmir prosecutors. When the prosecutors failed to act, she petitioned the Minister of Justice, and read her petition to the press. Although the Justice Ministry ultimately brought a case, the guards alleged to have committed the abuse were acquitted. Erkem remains on trial.

¶8. (C) European Commission human rights officer Sema Kilicer agreed the judiciary's mentality limits freedom of expression in Turkey. While Penal Code Article 301 has become emblematic, at least 12 articles or paragraphs must be changed for Turkey to comply with EU requirements, she explained. Prosecutors can use these other laws, as they have in recent attempts to block the popular website YouTube because of clips deemed insulting to Ataturk (ref A). "Turkish Daily News" columnist Burak Bekdil, himself convicted under Article 301, believes the problem lies not

only in the judiciary but with the governing Justice and Development Party (AKP). Bekdil told us AKP's constant promises and lack of action on Article 301 demonstrate it does not genuinely support liberal notions of free expression.

19. (C) Comment: The Yayla verdict is indicative of how far Turkey has yet to go before internalizing Western notions of freedom of expression. Even if the government takes the important, though difficult, step of amending Article 301 (ref B), a nationalist judiciary will likely continue to circumvent any new provision by using other laws to limit speech. Though Erkem resents the prosecutions brought against her, Yayla, and other human rights defenders, she is the first to recognize that their cases are sparking much-needed debate on these previously taboo topics. End comment.

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